

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MONTEZ MICKENS,

Petitioner,

CASE NO. 2:07-cv-421

JUDGE SMITH

MAGISTRATE JUDGE KEMP

v.

ERNIE MOORE, Warden,

Respondent.

OPINION AND ORDER

On February 6, 2008, the Magistrate Judge issued a *Report and Recommendation* recommending that respondent's motion to dismiss or stay be denied and that respondent be directed to file a response that complies with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts within twenty (20) days. Although the parties explicitly were advised of the right to object to the Magistrate Judge's *Report and Recommendation* and of the consequences of failing to do so, no objections have been filed.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. Respondent's motion to dismiss or stay proceedings is **DENIED**. Respondent is **DIRECTED** to file a response that complies with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts within twenty (20) days.

**IT IS SO ORDERED.**

\_\_\_\_\_/s/ George C. Smith  
GEORGE C. SMITH  
United States District Judge